

*REMARKS/ARGUMENTS**Present Invention and Pending Claims*

The present invention relates to a polyester composition and a polyester packaging material made therefrom. Claims 1-32 are pending.

Amendments to the Claims

The claims have been amended to further clarify the basis of the component contents. These amendments are supported by the specification at, for example, Examples 1-20. Claims 1, 2, 4, and 7 also have been amended to recite that the content of the partially aromatic polyamide is 0.1 to 3 parts by weight per 100 parts by weight of the thermoplastic polyester. This amendment is supported by the specification at, for example, Examples 1, 7, 13-15, and 17-19. In addition, claims 10 and 21-23 have been amended to correct an obvious typographical error. No new matter has been added by way of these amendments.

Summary of the Office Action

Claims 1-32 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite.

Claims 1-32 are rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over EP 1 239 008 (Takashima et al.) (“the ‘008 application”).

In addition, claims 1-32 are rejected under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent 6,733,853 (Takashima et al.) (“the ‘853 patent”).

Reconsideration of the pending claims is hereby requested.

Discussion of the Indefiniteness Rejections

Claims 1-32 allegedly are indefinite. The Examiner contends that it is unclear whether the claimed amounts of the components in the claims are based on the total composition or upon the sum total of the recited materials. To overcome this rejection, the claims have been amended to clarify the terms “parts by weight” and “ppm.” In particular, claims 1-7, 10-12, and 21-29 have been amended to recite that the component content recited in “parts by weight” is based on 100 parts by weight of the thermoplastic polyester, and the component content recited in “ppm” is based on the total weight of the composition.

In addition, the Examiner alleges that the amino group-containing compound and polyamide read on the same materials in claim 7. Applicants submit that this rejection is without merit. The partially aromatic polyamide is defined in the specification as “a polyamide comprising a unit derived from an aliphatic dicarboxylic acid and an aromatic diamine as a main constituting unit or a polyamide comprising a unit derived from an aromatic dicarboxylic acid and an aliphatic diamine as a main constituting unit” (see, e.g., page 23, lines 15-20). Thus, the polyamide always has a -C(O)N- (i.e., carbonyl) linkage, whereas the amino group-containing compound always has an -NRR’- (i.e., *non*-carbonyl) linkage (see, e.g., page 55, line 11, through page 57, line 20). Accordingly, the amino group-containing compound and polyamide do *not* read on the same materials.

In view of the foregoing, it is submitted that the indefiniteness rejections have been overcome.

Discussion of the Anticipation and Obviousness Rejections

Claims 1-32 allegedly are anticipated by or obvious over each of the ‘008 application and the ‘853 patent, which cited references are related to each other and contain similar disclosures. According to the Examiner, the cited references disclose polyester-based resin compositions comprising a blend of polyamide resin (A) and a polyester (B). The alkali metal content in the polyester composition allegedly falls within the claim scope. The Examiner contends that all the characteristics of the present invention are either expressly or inherently disclosed in the cited references. Regarding claim 7, as discussed above, the

Examiner takes the position that the amino group-containing compound and polyamide are the same materials.

In the Office Action, the Examiner refers to the antimony compound in the cited references as a disclosure of the alkali metal component of the pending claims (page 3, second paragraph). It is noted that antimony is classified in Group VA of the periodic chart and is not considered an alkali metal, which must be in Group IA of the periodic chart.

The cited references disclose a composition consisting of 3-40% by mass of a polyamide resin (A) and 97-60% by mass of a polyester resin (B) ('008 application, para. 0010; '853 patent, col. 3, lines 18-39). This equates to 3.1 parts by weight of polyamide per 100 parts by weight of the thermoplastic polyester (i.e., 3% polyamide/97% polyester). The pending claims have been amended to recite that the content of the partially aromatic polyamide is 0.1 to 3 parts by weight per 100 parts by weight of the thermoplastic polyester. As such, the disclosures of the cited references fall outside the claimed range of the polyamide content and, therefore, do not anticipate the pending claims.

The cited references do not teach or suggest adding amounts lower than 3.1 parts by weight of polyamide per 100 parts by weight of the thermoplastic polyester. In fact, the Takashima references teach away from adding amounts *lower* than 3.1 parts by weight, since it was found that amount higher than this (e.g., 5-35% by mass) improved the gas barrier properties and stabilized the moldability of the resin composition ('008 application, para. 0027; '853 patent, col. 6, lines 41-46).

Moreover, Applicants have surprisingly found that, when the polyamide content is between 0.1 to 3 parts by weight per 100 parts by weight of the thermoplastic polyester, improved properties of a blow-molded article formed from the inventive polyester composition result. For example, blow-molded articles in Examples 13-15 and 17-19, in which the amount of polyamide was less than 3 parts by weight, exhibited remarkably good transparency and a decreased haze value. See, e.g., Tables 7 and 8 of the specification.

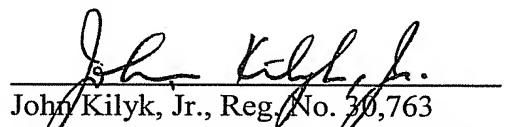
Since the cited references do not teach or suggest all the elements of the pending claims and teach away from the recited range, and since Applicants have discovered unexpected results with the recited range, the present invention as defined by the pending

claims 1-32 is neither anticipated by nor rendered obvious in view of the cited references. Accordingly, Applicants respectfully request that the anticipation and obviousness rejections over the '008 application and the '853 patent be withdrawn.

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,


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